REMARKS/ARGUMENTS

In view of the foregoing amendments and the following remarks, the applicants respectfully submit that the pending claims comply with 35 U.S.C. § 101, are not anticipated under 35 U.S.C. § 102 and are not rendered obvious under 35 U.S.C. § 103. Accordingly, it is believed that this application is in condition for allowance. **If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicants respectfully request that the Examiner contact the undersigned to schedule a telephone Examiner Interview before issuing any further actions on the merits.**

The applicants will now address each of the issues raised in the outstanding Office Action.

Rejections under 35 U.S.C. § 101

Claims 1-33 stand rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter. The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Claim 1 has been amended to recite that the method is a computer-implemented method wherein each act is performed "by a proxy including at least one computer." Thus, claim 1, as amended, is tied to a particular apparatus and recites statutory subject matter for at least this reason. This amendment is supported, for

example, by Figure 7 and paragraphs [0095]-[0099] of the present application. Since claims 2-16 directly or indirectly depend from claim 1, they similarly recite statutory subject matter.

Claim 17 has been amended to recite that the method is a computer-implemented method wherein each act is performed "with a content provider including at least one computer." Thus, claim 17, as amended, is tied to a particular apparatus and recites statutory subject matter for at least this reason. This amendment is supported, for example, by Figure 7 and paragraphs [0095]-[0099] of the present application. Since claims 18-20 depend from claim 17, they similarly recite statutory subject matter.

Claim 21 has been amended to recite that the method is a computer-implemented method wherein each act is performed "with a proxy including at least one computer." Thus, claim 21, as amended, is tied to a particular apparatus and recites statutory subject matter for at least this reason. This amendment is supported, for example, by Figure 7 and paragraphs [0095]-[0099] of the present application. Since claims 22-33 directly or indirectly depend from claim 21, they similarly recite statutory subject matter.

The applicants respectfully request that the Examiner withdraw this ground of rejection.

Rejections under 35 U.S.C. § 102

Claims 1-5, 7-18, 20-24, 26-38, 40-51, 53-57 and 59-66 stand rejected under 35 U.S.C § 102(b) as being anticipated by U.S. Patent No. 6,324,519 ("the Eldering patent"). The applicants respectfully request that the

Examiner reconsider and withdraw this ground of rejection in view of the following.

Before addressing at least some of the patentable features of various claims, exemplary embodiments consistent with the claimed invention are first introduced. The specification states:

> Considering that different Websites might sell their ad spots under different terms and conditions, and different advertisers might want to b[u]y ad spots under different terms and conditions, such a fragmented market would be too complex for many Websites and advertisers to fully exploit.
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> Unfortunately, many Websites do not have the resources to commit to running such auctions for ad spots on its pageviews, and would have to incur large costs to maintain a sales relationship with many advertisers.

(Paragraph [0009] of the present application)

Embodiments consistent with the claimed invention advantageously help "smaller Websites [which] might not have the resources to dedicate to negotiating ad sales agreements, let alone resources to find many competing advertisers" by arbitrating the sale of ad spots through a proxy that is not a content server and is different from an advertiser associated with the ad to be served. (Id., paragraph [0007])

Having introduced some exemplary embodiments consistent with the claimed invention, at least some

patentable features of the claimed invention are now discussed.

Independent claims 1 and 34, as amended, are not anticipated by the Eldering patent at least because the Eldering patent does not teach (1) accepting, by a proxy, ad spot availability information for a pageview to be provided in response to a page request, the ad spot availability information accepted from a first party, wherein ***the first party is not the proxy***, and (2) multicasting, by the proxy, ad spot requests for offers using the accepted ad spot availability information to at least two second parties, wherein ***the at least two second parties include at least two ad networks that are different from the first party and the proxy***.

First, in rejecting claims 1 and 34, the Examiner merely cites column 12, lines 10-20 and column 10, lines 42-50 of the Eldering patent as teaching the originally claimed acts of accepting and multicasting. (See Paper No. 20080913, page 3.) The Examiner seems to allege that the "server hosting the page announces an advertising opportunity to advertisers", (Column 12, lines 15 and 16 of the Eldering patent) "in a message transmitted to all of the advertisers" (Id., column 10, lines 44 and 45), is tantamount to the advertisers accepting the advertising opportunity from the server. Thus, the Examiner seems to conclude that the Eldering patent discloses features which corresponds to (1) accepting ad spot availability information from a first party, and (2) multicasting ad spot requests for offers using the accepted ad spot availability information to at least two second parties as originally recited in claims 1 and 34. The applicants respectfully disagree.

The applicants have amended claims 1 and 34 to clarify that the acts of accepting and multicasting are performed by a proxy (not the first party, nor the at least two second parties). As amended, the claims provide a proxy interacting with multiple ad networks and at least a content provider. This proxy benefits situations involving large numbers of different advertisers dealing with large numbers of different Websites which do not have:

> the resources to commit to running such auctions for ad spots on its pageviews, and would have to incur large costs to maintain a sales relationship with many advertisers.

(Paragraph [0009] of the present application)

By contrast, the Eldering patent does not disclose a ***proxy*** arbitrating the sale of ad spots between the content/opportunity provider and multiple advertisers. For example, the Eldering patent states, "[r]eferring to FIG. 7 content/opportunity provider 160 transmits an announce opportunity message 700 to one or more advertisers 144." (Column 9, lines 50-52 of the Eldering patent)

The rest of the Eldering patent is also silent with regards to a proxy as recited in claims 1 and 34. The profiler that "performs a correlation operation" (Column 10, line 21 of the Eldering patent) is different from the proxy as recited in claims 1 and 34. The profiler of the Eldering patent does not accept ad spot availability information for a pageview to be provided in response to a page request, nor does it multicast ad spot request for offers to at least two ad networks.

Although the Eldering patent states that "advertisement characterization which is used to determine the appropriateness of the advertisement to one or more consumers" (Column 1, lines 49-51 of the Eldering patent) "can be received by content/opportunity provider 160 or directly by profiler 140" (column 10, lines 2 and 3 of the Eldering patent), the Eldering patent does not disclose that the profiler 140 relays the ad characterization to the content/opportunity provider. Also, the Eldering patent does not disclose that an announce opportunity message 700 can be received directly by the profiler 140 or any other party that corresponds to a proxy which is different from the described advertiser. Indeed, the Eldering patent consistently and exclusively states in column 9 line 32 through column 11, line 5 that the content/opportunity provider announces opportunity directly to the advertisers.

Further, although column 11, lines 6-57 of the Eldering patent states:

> [T]he cable television operator acts as content/opportunity provider 160. The profiler 140 may also be the cable operator .... [T]he cable television operator may announce, via electronic means, the availability of a 30 second spot during a prime time sitcom.... In the event that the cable operator is the profiler[,] the cable operator directly performs a correlation to determine a correlation factor between the advertisement and the consumer/subscriber...,

this section does not provide a proxy distinct from the content/opportunity provider or the advertiser.

Thus, independent claims 1 and 34, as amended, are not anticipated by the Eldering patent for at least the foregoing reasons. Since claims 2-16 and 35-49 directly or indirectly depend from claims 1 and 34 respectively, these claims are similarly not anticipated by the Eldering patent.

Claims 17 and 50, as amended, recite (1) sending, with a content provider, ad spot availability information for a pageview to be provided in response to a page request, to a proxy representing at least two of (i) a first ad network, (ii) a second ad network, (iii) a first ad agency, and (iv) a second ad agency, wherein ***the content provider is not the proxy***, and (2) receiving, with the content provider, information concerning at least one ad corresponding to the ad spot availability information from the proxy, wherein the information concerning the at least one ad originates from ***an advertiser, and wherein the advertiser is different from the proxy and the content provider***. Exemplary embodiments consistent with the invention of claims 17 and 50 provide a content provider that deals with the advertiser through a ***proxy*** different from the advertiser. Thus, claims 17 and 50 are similarly not anticipated by the Eldering patent. Since claims 18-20 and 51-53 directly or indirectly depend from claims 17 and 50 respectively, these claims are similarly not anticipated by the Eldering patent.

The claims 21 and 54, as amended, recite (1) accepting with a proxy, ad availability information from an advertiser, wherein the ad availability information is associated with an ad to be served, and wherein ***the advertiser is not the proxy***, and (2) multicasting, with

the proxy, requests for offers using the accepted ad availability information associated with the ad to be served to at least two content owners, wherein ***the at least two content owners are different from the advertiser and the proxy.*** Exemplary embodiments consistent with the invention of claims 21 and 54 provide a proxy arbitrating the sale of ad spots between the content owners and the advertiser. The proxy is not the advertiser or the at least two content owners. Thus, claims 21 and 54 are similarly not anticipated by the Eldering patent. Since claims 22-33 and 55-66 directly or indirectly depend from claims 21 and 54 respectively, these claims are similarly not anticipated by the Eldering patent.

Rejections under 35 U.S.C. § 103

Claims 6, 19, 25, 39, 52 and 58 stand rejected under 35 U.S.C § 103(a) as being unpatentable over the Eldering patent. The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Claims 6, 19, 25, 39, 52 and 58 directly or indirectly depend from claims 1, 17, 21, 34, 50 and 54 respectively. The official notice would not compensate for the deficiencies of the Eldering patent with respect to claims 1, 17, 21, 34, 50 and 54 (discussed above), regardless of whether "it is old and well known in the promotion art to pay content providers based upon click through rates of ads." (The Paper No. 20080913, page 8) Consequently, claims 6, 19, 25, 39, 52 and 58 are not

rendered obvious by the cited references for at least this reason.

Amendments to the Specification

The specification has been amended to correct a minor error.

Conclusion

In view of the foregoing amendments and remarks, the applicants respectfully submit that the pending claims are in condition for allowance. Accordingly, the applicants request that the Examiner pass this application to issue.

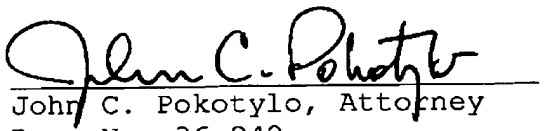
Any arguments made in this amendment pertain ***only*** to the specific aspects of the invention ***claimed***. Any claim amendments or cancellations, and any arguments, are made ***without prejudice to, or disclaimer of***, the applicants' right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

Since the applicants' remarks, amendments, and/or filings with respect to the Examiner's objections and/or rejections are sufficient to overcome these objections and/or rejections, the applicants' silence as to assertions by the Examiner in the Office Action and/or to certain facts or conclusions that may be implied by objections and/or rejections in the Office Action (such as, for example, whether a reference constitutes prior art, whether references have been properly combined or

modified, whether dependent claims are separately patentable, etc.) is not a concession by the applicants that such assertions and/or implications are accurate, and that all requirements for an objection and/or a rejection have been met. Thus, the applicants reserve the right to analyze and dispute any such assertions and implications in the future.

Respectfully submitted,

February 19, 2009



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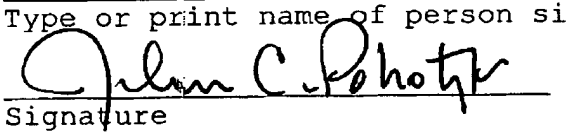

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